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| APPLICATION NO.         | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-------------------------|-------------|----------------------|---------------------|------------------|
| 09/810,514              | 03/15/2001  | David Chao           | 85160.924/T00071    | 6193             |
| 33438                   | 7590        | 01/12/2005           | EXAMINER            |                  |
| HAMILTON & TERRILE, LLP |             |                      | RUDY, ANDREW J      |                  |
| P.O. BOX 203518         |             |                      | ART UNIT            |                  |
| AUSTIN, TX 78720        |             |                      | PAPER NUMBER        |                  |
|                         |             |                      | 3627                |                  |

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 09/810,514             | CHAO ET AL.         |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Andrew Joseph Rudy     | 3627                |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 October & 22 November 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-64 is/are pending in the application.
- 4a) Of the above claim(s) 43-64 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I, claims 1-42 in the reply filed on October 26, 2004 is acknowledged. The traversal is on the ground(s) that an amendment to claim 43 obviates the restriction between Groups I and II; Groups II and III; no proper grounds have been established between Groups I, II and Group III and the proposed classification is not correct. This is not found persuasive because the amendment does not dictate that Group II require technology, e.g. a computer. Also, the Group I/II and Group II/III distinctions were set forth from paragraphs 2 and 3 from the previous Office Action. The Examiner inadvertently did not provide a distinction between Groups I/III and only indicated a separate search was required for each grouping.
2. On Thursday, January 6, 2005 telephone interview with Mr. Kent Chambers discussed these issues along with the fact that the Group I, II and III claim groupings were correct, but the description of each grouping was not correct in the response, i.e. no "browser method" or "browser device" or "storage medium" is associated with the identified Group I, II or III claims from the restriction requirement mailed June 23, 2004. Thus, the following is noted:

Inventions Group I and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because no plurality of modules are required. The subcombination has separate utility such as a configuration script for a network device.

The requirement is still deemed proper and is therefore made FINAL.

However, the Examiner may entertain rejoinder of the Group III claims if patentable subject matter is allowed from the Group I claims and the Group III claims closely mirror the Group I claims.

3. Claims 43-64 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on October 26, 2004.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gozdeck et al, US 6,636,852.

Gozdeck discloses, e.g. Figs. 1, 3, a system for paying commissions to a sales agent comprising servers, e.g. 114, and a compensation report, e.g. 122, from sales database, e.g. 110, S9. Gozdeck does not specifically disclose the terms first/second party, modules, selling agreements, a processor and memory. However, the sales database would inherently comprise modules and selling agreements used to determine compensation between the sales agent and another party (corporation), while using a processor and memory would have been obvious to one of ordinary skill in the art when reviewing the computer system disclosed. As per a plurality of distributors, this would have been an obvious design choice for one of ordinary skill in the art.

7. Further pertinent references of interest are noted on the attached PTO-892.

8. Applicant's two Information Disclosure Statements (IDS) have been reviewed, in part. It is noted the IDS received August 27, 2001 did not include the various US Application Numbers along with the cited Non Patent Literature. Thus, each reference has been crossed out and not reviewed. If Applicant intends on submitting each reference, it is suggested the relevant portion of the document be identified. Otherwise, the documents will be given a cursory review due to the sheer volume.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Joseph Rudy whose telephone number is 703-308-7808. The examiner can normally be reached on Monday thru Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P. Olszewski can be reached on 703-308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, reading "Andrew Joseph Rudy". The signature is written in a cursive, flowing style with a large, stylized "A" and "R".